

NSA review completed

State Dept. review completed

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 FM THE SITUATION ROOM//TOHAK 55//  
 TO PETER RODMAN FOR GEN SCOWCROFT  
 ZEM

~~SECRET~~ SENSITIVE DELIVER AT OPENING OF BUSINESS WH42232

TOHAK 55

JUNE 23, 1974

ON-FILE NSC RELEASE  
INSTRUCTIONS APPLY

TO: GENERAL SCOWCROFT  
 FROM: RICHARD KENNEDY

BRENT:

STATE IS PLANNING TO PUT THE ISSUE OF THE ATTACHED MEMO-  
 RANDUM TO SECRETARY KISSINGER BY CABLE. WE WANTED TO BE  
 SURE THAT OUR VIEWS WERE CLEAR. STATE'S BASIC VIEW IS TO  
 LET THINGS ALONE. WE THINK THIS IS A COURSE FRAUGHT WITH  
 CONSIDERABLE RISK, AS OUR MEMORANDUM SUGGESTS.

JUNE 28, 1974

MEMORANDUM FOR: SECRETARY KISSINGER  
 FROM: RICHARD T. KENNEDY  
 SUBJECT: PRC DIVERSION OF U.S. GRAIN TO NORTH  
 VIETNAM

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WE NOW HAVE  
 TO DECIDE WHETHER OF NOT TO WARN THE CHINESE THAT THIS VIO-  
 LATES U.S. LAWS AND REGULATIONS AND COULD, THEREFORE, RAISE  
 PROBLEMS IN U.S.-PRC TRADE RELATIONS. STATE IS SENDING YOU  
 A SEPARATE TELEGRAM ON THIS SUBJECT. THIS MEMORANDUM IS  
 INTENDED TO GIVE YOU OUR VIEWS ON THE ISSUES INVOLVED.

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BECAUSE OF THE COMPLETE U.S. EMBARGO ON  
 SUCH DIVERSIONS BY THE PRC ARE CONTRARY TO U.S. REGULA-

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TIONS; HOWEVER, WE CANNOT BE SURE THAT THE CHINESE ARE AWARE OF THIS. THESE ARE THE FIRST [REDACTED] WHICH WE HAVE DETECTED, AND WE HAVE NO RECORD THAT THE U.S. HAS DISCUSSED THIS SUBJECT WITH THE CHINESE.

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DICK SOLOMON AND STATE BELIEVE THAT OUR RAISING THIS DIVERSION WITH THE CHINESE IS MOST LIKELY TO PROVOKE A HARSH RESPONSE FROM PEKING. AND IN ANY EVENT WILL NOT INDUCE THEM TO STOP

[REDACTED] IN THIS CASE, WE WOULD EITHER HAVE TO BACK DOWN AND ACQUIESCE IN [REDACTED] -- WHICH IS UNDESIRABLE -- OR TIGHTEN OUR EXPORT RESTRICTIONS (EITHER BY REQUIRING THE CHINESE TO SIGN END-USE STATEMENTS OR CUTTING OFF [REDACTED] TO THE PRC) WHICH WOULD PROVOKE EVEN STRONGER REACTIONS.

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AT BEST CHINESE MIGHT NOT REPLY -- LEAVING US TO DECIDE WHAT TO DO ABOUT THESE DIVERSIONS. DICK SOLOMON IS ESPECIALLY CONCERNED THAT A COMPLAINT TO PEKING AT THIS TIME COULD FURTHER EMBARRASS OR WEAKEN THE POSITION OF THOSE WHO FAVOR IMPROVING U.S.-PRC TIES, PARTICULARLY IN VIEW OF THE RECENT REVERSAL OF THE MARINE GUARD AND CLAIMS/ASSETS AGREEMENTS. STATE ALSO ASSERTS THAT OUR LAWS DO NOT REQUIRE US TO ACT IN A CASE LIKE THIS.

DICK SMEYSER, BILL STEARMAN AND I FEEL STRONGLY THAT WE SHOULD INFORM THE PRC OF OUR VIEWS FOR THE FOLLOWING REASONS:

-- THERE IS A GOOD CHANCE THAT THESE DIVERSIONS WILL BECOME PUBLIC KNOWLEDGE. (A NUMBER OF [REDACTED] AND OTHERS ALREADY KNOW ABOUT THEM.) THERE MIGHT WELL BE THOSE ON THE HILL AND ELSEWHERE WHO WOULD RAISE PROTESTS AND ASK WHY WE PERMITTED THESE DIVERSIONS AND WHAT WE ARE DOING TO STOP THEM. THIS IS PARTICULARLY SERIOUS IN LIGHT OF THE CURRENT HIGH DOMESTIC PRICES WHICH SOME ATTRIBUTE, IN PART AT LEAST, TO THE HEAVY EXPORTS OF [REDACTED] THIS KIND OF PUBLIC CONTROVERSY WOULD CERTAINLY NOT ENHANCE OUR TRADE RELATIONS WITH THE PRC; MOREOVER, IT COULD REINFORCE SENTIMENT ON THE HILL FOR TIGHTER EXPORT CONTROLS AND AGAINST EXPANDED EAST-WEST TRADE.

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-- BY REMAINING SILENT IN THE FACE OF SUCH PROVOCATIONS, INTENTIONAL OR NOT, WE ONLY ENCOURAGE MORE SERIOUS CHALLENGES WHICH COULD SEVERELY IMPERIL THE ALREADY DIFFICULT DEVELOPMENT OF U.S.-PRC RELATIONS.

-- IF WE DO NOTHING, THOSE WITHIN CHINA WHO OPPOSE A CONCILIATORY LINE TOWARD THE U.S. COULD DEMONSTRATE THAT CHINA CAN REAP THE BENEFITS OF U.S.-PRC TIES WHILE TAKING ACTIONS HOSTILE TO U.S. INTERESTS.

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WE RECOMMEND THAT STATE RAISE THESE DIVERSIONS WITH THE PRC LIASON OFFICE HERE IN A LOW KEY NON-ACCUSATORY TONE USING THE TALKING POINTS AT TAB A (MOST OF WHICH WERE DRAFTED BY STATE).

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TAB A

TALKING POINTS

IF WE DISCUSS THE MATTER WITH THE PRC NOW IT WOULD PROBABLY BE BEST TO DO SO IN TERMS THAT ARE AS NON-ACCUSATORY AS POSSIBLE, PERHAPS ALONG THE FOLLOWING LINES:

-- WE HAVE HEARD THAT [REDACTED]

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-- YOU MAY BE AWARE THAT THERE IS STILL A U.S. EMBARGO ON [REDACTED] BUT YOU MAY NOT KNOW THAT OUR LAWS AND REGULATIONS ALSO COVER WHAT MIGHT BE CALLED INDIRECT TRADE.

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-- IN OTHER WORDS, U.S. LAWS AND REGULATIONS PROHIBIT THE EXPORT OF U.S. GOODS TO ANY COUNTRY IF IT IS KNOWN THAT THE GOODS MAY ULTIMATELY BE SENT TO [REDACTED]

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-- WE ARE RAISING THE MATTER WITH YOU NOW BECAUSE WE BELIEVE THAT SUCH [REDACTED] COULD VERY LIKELY BECOME PUBLIC KNOWLEDGE AND COULD RAISE PROBLEMS WHICH COULD IMPAIR TRADE RELATIONS BETWEEN THE U.S. AND PRC.

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